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8 *Attorneys for Complainant*

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2010-639

14 **ALANNA DAWN LEAKE**
15 **5041 Westmont Way**
Carmichael, CA 95608

ACCUSATION

16 **Registered Nurse License No. RN 711095**

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 **License History**

25 2. On or about August 23, 2007, the Board of Registered Nursing issued Registered
26 Nurse License Number RN 711095 ("license") to Alanna Dawn Leake ("Respondent"). The
27 license was in full force and effect at all times relevant to the charges brought herein and will
28 expire on November 30, 2010, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code"), unless otherwise indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

7. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

8. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or the extent that such

1 use impairs his or her ability to conduct with safety to the public the
2 practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription,
4 consumption, or self administration of any of the substances described in
5 subdivisions (a) and (b) of this section, or the possession of, or
6 falsification of a record pertaining to, the substances described in
7 subdivision (a) of this section, in which event the record of the conviction
8 is conclusive evidence thereof.

6 COST RECOVERY

7 9. Code section 125.3 provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 FIRST CAUSE FOR DISCIPLINE

12 (Criminal Conviction)

13 10. Respondent is subject to disciplinary action under Code section 2761, subdivision (f),
14 in that on or about June 16, 2009, in the Superior Court of California, County of Sacramento, in
15 the case entitled, *People of the State of California v. Alanna Dawn Leake* (Super Ct. Sacramento
16 County, 2009, Case No. 09T04161), Respondent was convicted on her plea of nolo contendere of
17 violating Vehicle Code section 23152, subdivision (b) (Drive While Having .08% or More Blood
18 Alcohol Content [.22%], with allegations of Vehicle Code sections 23578 (Drive While Having
19 Concentration of Alcohol of .15% or More), and 23538, subdivision (b)(2) (Drive While Having
20 Concentration of Alcohol of .20% or More), a misdemeanor. Such crime is substantially related
21 to the qualifications, functions, and duties of a registered nurse.

22 The circumstances of the crimes are that on June 21, 2009, a City of Folsom Police Officer
23 observed Respondent make a U-turn without her vehicle headlights on. After making a traffic
24 stop, the officer noticed Respondent had watery eyes and her breath smelled of alcohol. After
25 failing to complete the field sobriety tests, Respondent was arrested and transported to Mercy
26 Folsom Hospital for a blood test, which results showed a B.A.C. .22%.

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